



**UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY**

South Tower - Suite 1950  
225 Peachtree Street  
Atlanta, GA 30303

June 10, 2013

Sharon S. Powers  
108 Kings Cross Drive  
Madison, AL 35758

Re: Freedom of Information Act Request  
Case No. AT-CA-13-0174

Dear Ms. Powers:

This responds to your request of May 24, 2013, whereby you requested certain information under the Freedom of Information Act (the FOIA), 5 U.S.C. § 552, as amended. Specifically, you have requested all information used as a basis to dismiss the above-referenced charge. By separate e-mail communication to you, I advised that virtually all of the information meeting that description was provided by you; accordingly, to avoid fees under section 2411.13, I have not included that voluminous documentation. If you do wish copies of the documentation you provided, please advise and that documentation will be prepared and forwarded to you. Based upon your request, the following documents may be disclosed under the Freedom of Information Act (the FOIA), 5 U.S.C. § 552, as amended, and copies of the documents are attached to this letter. The documents are described as follows:

- Opening Letter in Case No. AT-CA-13-0174 (two pages)
- Unfair Labor Practice Charge in Case No. AT-CA-13-0174 (one page)
- Designation of Representative Form in Case No. AT-CA-13-0174 (one page)
- ULP data entry form in Case No. AT-CA-13-0174 (one page)
- Dismissal Letter Case No. AT-CA-13-0174 (five pages)

There are no charges associated with granting the request. 5 C.F.R. § 2411.13(b).

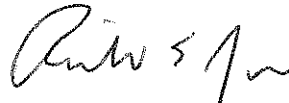
It is noted that the case file also contains affidavits, intra-office memoranda, investigative reports, documents containing personal information, and communications between the investigator and the parties individually. However, your request is denied with respect to those documents because such documents are protected from disclosure by Exemptions 5 and 7(C) and (D) of the FOIA. Exemption 5 protects from disclosure intra-agency documents that are not available by law to a party in litigation with the agency, i.e., documents that are

prepared during a pre-decisional deliberative process, and documents that represent an attorney's work product. The deliberative process privilege applies to documents that are (1) predecisional, *Mapother v. Dep't of Justice*, 3 F.3d 1533, 1537 (D.C. Cir. 1993) and (2) deliberative. *Jordan v. Dep't of Justice*, 591 F.2d 753, 774 (D.C. Cir. 1978). These types of materials are exempt under Exemptions 5 and 7(C) and (D) of the FOIA in order to assure that internal deliberations are carried out in the candid manner necessary to effective decision-making. *NLRB v. Sears, Roebuck and Co.*, 421 U.S. 132, 150 (1975). Thus, to the extent that these documents relate to deliberations, their disclosure is not required as disclosure would be destructive to the Regional Director's adjudicative responsibility and integrity.

Exemption 7(C) protects from disclosure information that is personal that has been compiled for law enforcement the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." *McDonnell v. United States*, 4 F.3d 1227, 1255-56 (3d Cir. 1993) (*McDonnell*). Exemption 7(D) protects from disclosure records or information compiled for law enforcement purposes that could reasonably be expected to identify a confidential source. *McDonnell* at 1258.

I am responsible for this determination on your request. Under § 2411.10(a) of the Rules and Regulations of the Authority, you may obtain a review of this determination by filing a written appeal of my determination within thirty (30) days after receipt of this response. You should file the appeal with the Office of the General Counsel, 1400 K Street NW, Second Floor, Washington, D.C. 20424-0001.

Sincerely,



Richard S. Jones  
Regional Director

Enclosures

cc: Richard Zorn  
FOIA Officer for the General Counsel  
Federal Labor Relations Authority  
1400 K Street NW, Second Floor  
Washington, D.C. 20424-0001